

May 24, 2000

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL**

SUBJECT: Department of Development and Environmental Services File No. **L99P3007**  
Proposed Ordinance No. **2000-0274**

**FAIRHAVEN DIVISION II**  
Preliminary Plat Application

Location: On the east side of 148<sup>th</sup> Avenue Southeast, south of Southeast 184<sup>th</sup> Place

Applicant/

Property Owner: Pacific Properties, *represented by* **Barbara Yarrington**  
14110 Bellevue-Redmond Road, Bellevue, WA 98007

**SUMMARY OF DECISION:**

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

**PRELIMINARY MATTERS:**

Application or petition submitted:	August 13, 1999
Complete application:	September 10, 1000
Application revision submitted:	May 1, 2000

**EXAMINER PROCEEDINGS:**

Hearing Opened:	May 16, 2000
Hearing Closed:	May 16, 2000

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Cut-through traffic
- Wildlife habitat

SUMMARY:

The preliminary plat application is granted, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer:	Pacific Properties, <i>represented by</i> Barbara Yarrington 14110 Bellevue-Redmond Road, Bellevue, WA 98007
Engineer:	Barghausen Consulting Engineers, <i>represented by</i> Eric LaBrie, 18215 – 72 <sup>nd</sup> Avenue So, Kent, WA 98032
Location:	On the east side of 148 <sup>th</sup> Avenue Southeast, south of Southeast 184 <sup>th</sup> Place
STR:	34-23-05
Zoning:	R-6 (6 residential units/acre)
Acreage:	9.65
Number of Lots:	44
Proposed Density:	4.6 dwelling units per acre
Typical Lot Size:	5,000 square feet
Proposed Use:	Single-family residences
Sewage Disposal:	Soos Creek Water and Sewer District
Water Supply:	Soos Creek Water and Sewer District
Fire District:	King County No. 40
School District:	Kent
Complete Application Date:	September 10, 1999

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the May 16, 2000 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Pacific Properties has filed a preliminary plat application to subdivide 9.65 acres into 44 lots for single-family residential development. The property is located in the Fairwood neighborhood west of 148<sup>th</sup> Avenue Southeast and south of Southeast 184<sup>th</sup> Place. The current proposal is part of the proposed plat of Fairhaven, which originally received preliminary approval in 1992. With

respect to the lots contained in the Division II application, preliminary approval was allowed to lapse, and a new application was required.

4. The Fairhaven development parcels are constrained by the presence of Lower Cedar River Wetland No. 23, a large Class I wetland that comprises approximately 8 acres and is subject to a 100-foot buffer requirement. The Division II property is located just north of Wetland No. 23 and is dominated by relatively mature mixed forest growth.
5. Due to the size and complexity of the wetland and its proximity to the Lake Youngs Preserve immediately to its east across 148<sup>th</sup> Avenue Southeast, the Fairhaven site features an abundance of wildlife use, a fact that was noted in the Wildlife and Habitat update prepared for this application on June 11, 1999:

“The property has several attributes that will affect the richness of wildlife species encountered . . . The plant species and vegetation is rich and diverse and will provide foraging and nesting opportunities for many species. In addition, the location of the property adjacent to the approximately 2,500 acre Lake Youngs Preserve will increase the number of species observed on the property because the preserve provides very high quality habitat with almost no disturbance for many species. Robust populations on the Preserve will ‘leak’ juveniles into adjacent areas with high quality habitat. In addition, individuals with large territories or foraging range such as pileated woodpeckers, red-tailed hawks, and coyotes will reside in the Preserve and/or forage beyond its perimeters. Thus, the Fairhaven property will have more diverse wildlife than comparable habitat patches that are more isolated from large refuges such as the Lake Youngs Preserve.”

6. The primary issue raised by neighborhood residents living to the north of the site concerns potential traffic impacts. Because the plat access road will exit east to 148<sup>th</sup> Avenue Southeast, residents immediately to the north living on Southeast 184<sup>th</sup> Place are concerned that new traffic from Fairhaven will employ their residential street when traveling to and from the plat. A number of suggestions were presented for avoiding these impacts, including requiring northbound plat traffic to turn right on 148<sup>th</sup> Avenue Southeast and travel south to Southeast 192<sup>nd</sup> Street to access the 140<sup>th</sup> Avenue Southeast corridor. Another suggestion was to require the Applicant to install speed humps on Southeast 184<sup>th</sup> Place to discourage its use.
7. Transportation patterns in the area are complicated by the fact the main arterial corridor from the north, 140<sup>th</sup> Avenue Southeast, does not continue due south into the Kent area, but detours eight blocks further east along Southeast 192<sup>nd</sup> Street to 148<sup>th</sup> Avenue Southeast, which then becomes the arterial route. Because of heavy congestion at the 140<sup>th</sup> Avenue Southeast/Southeast 192<sup>nd</sup> Street intersection, there is a temptation for southbound traffic to cut through the neighborhood just north of the Fairhaven Division II property in order to avoid delays. In response to this cut-through problem, the County Department of Transportation has recently installed traffic calming measures, including speed humps along Southeast 181<sup>st</sup> Street and Southeast 183<sup>rd</sup> Street between 140<sup>th</sup> Avenue Southeast and 148<sup>th</sup> Avenue Southeast, as well as along 148<sup>th</sup> Avenue Southeast between Southeast 183<sup>rd</sup> Street and Southeast 192<sup>nd</sup> Street.
8. Since Southeast 184<sup>th</sup> Place provides an alternative to Southeast 183<sup>rd</sup> Street, neighborhood residents are concerned that both southbound cut-through traffic as well as new traffic generated

by Fairhaven Division II will prefer using their local access street because it lacks the speed humps found on Southeast 183<sup>rd</sup> Street. While recognizing the legitimacy of these concerns, Department of Transportation staff is reluctant to install new speed humps on Southeast 184<sup>th</sup> Place now or take other diversionary measures before the actual impacts of new development can be assessed. A major widening of 140<sup>th</sup> Avenue Southeast is scheduled to occur within the next few years, and staff is hopeful that these improvements will further reduce the inclination of southbound traffic to divert through the Fairwood neighborhood.

9. Further, while it is preferable that Fairhaven II traffic use Southeast 183<sup>rd</sup> Street rather than Southeast 184<sup>th</sup> Place because the former functions as a neighborhood collector and has greater width, sidewalk facilities and an absence of ninety degree intersections, it must be acknowledged that Fairhaven traffic is not truly cut-through traffic in the same sense as traffic originating further south in the Kent area. For purposes of transportation planning, all traffic having destinations within the neighborhood north of Southeast 192<sup>nd</sup> Street is considered local and would be expected to use the public streets in the area for residential access. The hope and expectation is that the new Fairhaven traffic will use the Southeast 181<sup>st</sup> Street/Southeast 183<sup>rd</sup> Street route and not loop further south via Southeast 184<sup>th</sup> Place. If the latter situation develops, County staff is prepared to install traffic calming measures to reorient the traffic back to Southeast 183<sup>rd</sup> Street. But due to the small volumes involved, the preemptive installation of speed humps along Southeast 184<sup>th</sup> Place seems too drastic a measure at this time in the absence of actual data supporting its implementation. Finally, proposals to force Fairhaven traffic to travel south to Southeast 192<sup>nd</sup> Street in order to access the 140<sup>th</sup> Avenue Southeast corridor northbound are extreme measures that would increase travel inefficiency and contribute further to existing arterial congestion merely in order to avoid a speculative local impact. The staff's position embodies a more reasonable and balanced approach, and should be implemented.

#### CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

#### DECISION:

The preliminary plat application for Fairhaven Division II as revised and received on May 1, 2000, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.

3. The plat shall meet the base density (and minimum density) of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 8041, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual (KCSWDM). DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
  - d. Storm water facilities shall be designed using the KCRTS Level 2 flow control standard. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and water quality facilities. All runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for recreation space in accordance with KCC 21A.14.180.

- e. Water quality facilities shall be provided using the basic water quality treatment standards as specified in the drainage manual. The site is located within a mapped sole source aquifer area; therefore, design of the water quality facilities shall include the applicable requirements for pond liners as specified in Section 6.2.4 of the drainage manual.
  - f. As outlined in the drainage manual for Special Requirement No. 2, the 100-year floodplain boundaries for the adjacent wetland shall be determined and shown on the final plans.
  - g. A geotechnical analysis shall be submitted with the engineering plans to address requirements for ground water control and the design of storm water facilities within Tract A. Subsurface dewatering facilities will be necessary to stabilize groundwater elevations and assure that the proposed detention pond operates properly.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. Road A shall be improved to urban subaccess standards. The County Road Engineer has approved a road variance application regarding the length of cul-de-sac for Road A. ( See Road Variance L99V0341.)
  - b. Road B shall be improved as an urban minor access street.
  - c. 148<sup>th</sup> Ave. SE shall be improved along the frontage of the plat as an urban neighborhood collector street with vertical curbs. The curb and sidewalk shall be constructed to connect with the entrance improvements at SE 184<sup>th</sup> Place. A 25-foot right of way line radius shall be provided at the northeast corner of Lot 1.
  - d. Tract E shall be improved as a private joint use driveway serving Lots 1 and 2. The serving lots shall have undivided ownership of the tract and be responsible for its maintenance. As specified in KCRS 3.01C, improvements shall include an 18-foot paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side.
  - e. The triangular shaped area in the southeast corner of Lot 42 shall be shown as road right-of-way to provide better access for potential development on the abutting southerly tax lot.
  - f. As required by KCRS 5.03, street trees shall be included in the design of all road improvements.
  - g. 148<sup>th</sup> Ave. SE is designated a neighborhood collector street which may require designs for bus zones and turnouts. As specified in KCRS 2.16, the developer shall contact Metro and the local school district to determine specific requirements.

- h. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
- 9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
- 10. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE  
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

- 11. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Prior to engineering plan approval, the applicant shall provide notice on title as outlined in KCC 21A.24.170. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to commencing construction activities on the site.
  - a. The offsite King County Class I Wetland No. 23 to the south of the Fairhaven II property shall have a 100-foot buffer of undisturbed vegetation as measured from the wetland

edge. Buffer averaging is acceptable so long as the provisions of KCC 21A.24.320B are satisfied. Minimum buffer area at any point shall be no less than 65 feet.

- b. The wetland buffer areas shall be placed in Sensitive Area Tracts (SATs), and shall be recorded on all documents of title of record for all affected lots.
- c. A minimum 15-foot building setback line shall be established from the outer edge of the SATs.
- d. As agreed by the applicant in a letter dated April 11, 2000, a split-rail or similar fence shall be placed along the entire length of the south side of the Fairhaven II site, except on those lots where there will be a rockery. The fence shall be bonded per KCC 21A.24.140, and may be required to be included with the engineering bond. A plan showing fence design and location shall be submitted to the Subdivision Technical Committee with the engineering plans for review and approval. Bonding for the fence may be required to be included with the engineering bond. The fencing details shall include permanent signs to be provided in a manner approved by DDES. This mitigation measure is intended to provide additional protection for offsite King County Class I Wetland No. 23 and its associated buffer areas.

Prior to commencing construction activities on the site, the applicant shall mark the SATs in a highly visible manner, and this area must remain so marked until all development activities in the vicinity of the sensitive areas are completed.

- e. Prior to final approval of construction activities on the site, the SATs shall be delineated and permanently signed in accordance with KCC 21A.24.160. The sign details shall be shown on the engineering plans.
  - f. Prior to final recording, the engineering plans shall be submitted to the DDES sensitive areas group for review and approval.
12. Lots within this subdivision are subject to King County Ordinance 10162 and Ordinance 12532, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. Suitable recreation space shall be provided, consistent with the requirements of KCC 21A.14.180.

An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.



A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.

A performance bond for recreation space improvements shall be posted prior to recording of the plat.

14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and landscape areas and sensitive areas tracts.

ORDERED this 24<sup>th</sup> day of May, 2000.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 24<sup>th</sup> day of May, 2000, to the parties and interested persons listed below:

John Andrew	Teresa LeMay	Keri Akers
Robert Armstrong	Alfred Lorenz	Greg Borba
Karen Baer	Rick Lundquist	Kim Claussen
Mike Baldwin	Linda Matlock	Peter Dye
Jeff and Cyndy Bell	John McPherson	Nick Gillen
Lynn Bollman	Michael Miller	Kristen Langley
Robert Carter	Eleanor Moon	Aileen McManus
Jeff Chalfant	New Home Trends	Carol Rogers
Eugene Church	Gary/Midge Niehl	Steven C. Townsend
Roger Dorstad	Sam De Ri	Larry West
David Gaynes	Dennis Saltys	
Vince Geglia	Seattle-KC Health Dept	
John Hurley	Elizabeth Shiroishi	
Ron Knight	C Warren Turner	
Eric LaBrie	Steven and Jane Wraith	
Tim Larson	Barbara Yarrington	
James Lee	Nadine Zackrisson	

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before June 6, 2000***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before June 13, 2000***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MAY 16, 2000, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT  
AND ENVIRONMENTAL SERVICES FILE NO. L99P3007 – FAIRHAVEN II:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Keri Akers, Nick Gillen and Pete Dye. Participating in the hearing and representing the Applicant was Mike Miller of Pacific Properties. Other participants in this hearing were Aileen McManus, Vince Geglia, Richard Lundquist, Tim Larson, Sam De Ri, Karen Baer, David Gaynes, Mike Miller, Ron Knight, Mike Baldwin, Elizabeth Shiroishi and Robert Carter.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File No. L99P3007
- Exhibit No. 2 DDES Preliminary Report to the Hearing Examiner, dated May 2, 2000
- Exhibit No. 3 Application, dated August 13, 1999
- Exhibit No. 4 Environmental Checklist, dated August 13, 1999
- Exhibit No. 5 Declaration of Non-significance, dated April 14, 2000
- Exhibit No. 6 Affidavit of Posting indicating September 15, 1999 as date of posting and September 16, 1999 as the date the affidavit was received by DDES.
- Exhibit No. 7 Plat Map, dated February 2, 2000
- Exhibit No. 8 Land Use Map (Kroll) page 632E
- Exhibit No. 9 Assessors Maps SE 34-23-5, KC 134
- Exhibit No. 10 Road Variance L99V0341, dated August 12, 1999

- Exhibit No. 11 Traffic Count, TPE Inc., dated December 21, 1999
- Exhibit No. 12 Traffic Impact Analysis, TPE Inc., dated August 13, 1999
- Exhibit No. 13 Wetland Evaluation, Terra Associates, dated August 13, 1999
- Exhibit No. 14 Groundwater Analysis, Terra Associates, dated April 17, 2000
- Exhibit No. 15 Conceptual Recreation Space Plan, dated April 19, 2000
- Exhibit No. 16 Small site map, highlighted and submitted by Tim Larson
- Exhibit No. 17 Small map of routes showing 148<sup>th</sup>, 140<sup>th</sup> and 192<sup>nd</sup>, submitted by Tim Larson
- Exhibit No. 18 Excerpt from 1994 King County Comprehensive Plan, submitted by Sam De Ri
- Exhibit No. 19 Excerpt from proposed 2000 King County Comprehensive Plan, submitted by Sam De Ri
- Exhibit No. 20 Color copy of photographs showing car in house, submitted by Karen Baer.
- Exhibit No. 21 Copy of May 7, 2000 Seattle Times, showing front page article about area accidents, submitted by Karen Bear.
- Exhibit No. 22 Letter from Ron Knight to Hearing Examiner, dated May 4, 2000
- Exhibit No. 23 Letter from James Lee to Hearing Examiner, dated May 1, 2000
- Exhibit No. 24 Letter from C. Warren and Gaye L. Turner to Hearing Examiner, dated May 3, 2000, with three wildlife-related attachments
- Exhibit No. 25 Letter from Gloria Spino to Building Permits Department, dated May 12, 2000
- Exhibit No. 26 King County Road Services Division Traffic Calming Project, Effectiveness Assessment Report, dated March 17, 2000